IN THE HIGH COURT OF BOMBAY AT GOA
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CRIMINAL REVISION APPLICATION NO. 37 OF 2001

Shri Mahaveer Huddar,
Ustc Nagargao,
Sattari, Goa. ... Petitioner.

Versus

S T A T E
(Through Public Prosecutor,
Panaji, Goa) ... Respondent.

Shri M. P. Amonkar, advocate for the petitioner.

Shir A. P. Lawande, Public Prosecutor for the State.

CORAM: P. V. KAKADE, J.

DATE: 11th October, 2002.

ORAL JUDGMENT

The petitioner has preferred this application against the Judgment and Order passed by the Additional Sessions Judge, Mapusa, in Criminal Appeal No.20/2001, on 26th November, 2001, whereby the Appeal was dismissed and Judgment of conviction passed against the petitioner in Criminal Case No.25/S/1997, was upheld whereunder the petitioner was convicted for committing the offence punishable under Section 354 of the Indian Penal Code and was sentenced to undergo R.I. for six months and to pay a fine of Rs.5,000/-, and in default, to under S.I. for two months. It was also directed that if the fine amount was realized, it should be paid to the victim girl towards compensation under Section 357 of the Code of Criminal Procedure.

2. Briefly stated the facts involved show that on 17th March, 1997 at about 1 p.m. at Uste in Government

Primary School, the accused had caught hold of the hands of his student Sharmila Gawas, aged 12 years and outraged her modesty. The evidence of the victim girl on record also supported the charge against the petitioner, which was held to be sufficient proof for holding the petitioner guilty of commission of the offence contemplated under Section 354 of the Code of Criminal Procedure.

The reasoning adopted and the finding recorded by the learned J.M.F.C., Sattari, Valpoi, was upheld by the learned Additional Sessions Judge, while dismissing the Appeal. Shri Amonkar, learned counsel for the petitioner submitted that there was a delay in filing the complaint and, therefore, the entire prosecution case is rendered doubtful. However, a perusal of the record shows that two days delay had occurred, which was purportedly explained by the entire prosecution evidence on record. Moreover, it cannot be overlooked that the victim in the case is a 12 year old girl and there is absolutely no reason as to why she should falsely implicate her own teacher in such an offence. There is no whisper or any suggestion on record that she has been tutored by some third person, having vested interest against the petitioner.

In view of this aspect, I do not see any reason as to why the delay of two days in filing the F.I.R. should be of any consequence under the circumstances revealed from the

record.

3. So far as the quantum of sentence is concerned, it must be taken into account that the petitioner is a teacher and the victim is a 12 year old student. The facts established on record also show that after the school hours the petitioner asked two girls, including the victim, to wait a while after all had left. Thereafter, the other girl was asked to go out and then the petitioner took the victim in the classroom, closed the door and asked her to remove her clothes. Then she got panicky, she shouted loudly and ran away. In such a situation, it must be noted that but for the escape of the helpless victim, the case could easily result in a more heinous offence like rape. Under the circumstances, I do not see any reason even to interfere with regard to the quantum of the sentence passed by both the lower courts, specially when in such cases severe deterrent punishment is called for.

4. In the result, the revision application stands dismissed. The petitioner is on bail and shall surrender to undergo the sentence within two weeks from the date of this Order.

P. V. KAKADE, J.

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